

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested in view of the following remarks.

I. Introductory Matter

Claims 1-4 and 19-26 have been withdrawn from consideration due to an earlier restriction requirement. Claims 5, 6, 15, and 16 have been amended. New claims 41-43 are added. Claims 27-40 have been cancelled. No new matter has been added.

Applicants have amended claim 5 and 15 for clarification. The claims were amended to and “a modified factor VIII” and recite “when compared to a corresponding human factor VIII polypeptide expressed under the same conditions.” This amendment was not related to patentability, rather it was for clarification. No new matter is added by this amendment, which is supported by the specification at paragraphs 31-32.

Claims 41-43 have been added. No new matter is added by claims 41-43 which are supported by claims 5, 6, 15, and the specification at paragraphs 35, 40, and 41.

Claims 27-40 were cancelled because they are redundant. This amendment was not related to patentability.

II. Claim Rejections – 35 U.S.C. § 102(b)

Claims 5-18 stand rejected under 35 U.S.C. § 102(b) as being allegedly unpatentable over U.S. Patent No. 5,859,204 to Lollar ('204). Applicant respectfully traverses this rejection as being based upon a reference that does not anticipate the features recited by independent claims 5 and 15 and hence dependent claims 6-14 and 16-18.

With respect to independent claims 5 and 15, as amended, Applicant respectfully submits that the '204 patent fails to disclose the features claimed by Applicant. In particular, the Office action alleges that the '204 patent discloses at column 4, lines 40-67 an isolated nucleic acid molecule, represented by SEQ ID NO:38, that encodes a polypeptide characterized by high-level expression. Applicant respectfully disagrees. The cited reference does not disclose nor characterize the expression of SEQ ID NO:38. Moreover, SEQ ID NO: 38 is not an isolated nucleic acid molecule comprising a

nucleotide sequence having at least 95% sequence identity to a polynucleotide shown in SEQ. ID NO: 18. Rather, SEQ ID NO: 38 is less than 87% identical to SEQ ID. NO: 18 (see attached sequence alignment).

Claims 6-14 each depend from claim 5 and claims 16-18 each depend from claim 15. Therefore, claims 6-14 and 16-18 are allowable for at least the reasons discussed above. Applicant has overcome this ground of rejection and respectfully requests that it be withdrawn.

III. Claim Rejections – 35 U.S.C. § 102(e)

The examiner objected to claims 5-18 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,458,563 to Lollar ('563). Applicant respectfully traverses this rejection as being based upon a reference that does not anticipate the features recited by independent claims 5 and 15 and hence dependent claims 6-14 and 16-18. Applicant further points out that applicant is the inventor of the '563 patent and therefore a rejection under § 102(e) is inappropriate.

With respect to independent claims 5 and 15, as amended, Applicant respectfully submits that the '563 patent fails to disclose the features claimed by Applicant. In particular, the Office action alleges that the '563 patent discloses in the Background of the Invention an isolated nucleic acid molecule, represented by SEQ ID NO:37, that encodes a polypeptide characterized by high-level expression. Applicant respectfully disagrees. The cited reference does not disclose nor characterize the expression of SEQ ID NO:37. Moreover, SEQ ID NO: 37 is not an isolated nucleic acid molecule comprising a nucleotide sequence having at least 95% sequence identity to a polynucleotide shown in SEQ. ID NO: 19. Rather, SEQ ID NO: 37 is less than 90.5% identical to SEQ ID. NO: 19 (see attached sequence alignment).

Claims 6-14 each depend from claim 5 and claims 16-18 each depend from claim 15. Therefore, claims 6-14 and 16-18 are allowable for at least the reasons discussed above. Applicant has overcome this ground of rejection and respectfully requests that it be withdrawn.

Application No.: 10/813,507

Amendment and Response dated: September 22, 2008

Reply to Office Action of March 25, 2008

SUMMARY

Applicant respectfully submits that the application is in condition for allowance and requests that a Notice of Allowance issue. The Examiner is invited to contact the undersigned attorney for Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

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